

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 7, 1998 to March 31, 1998**

**SECOND SPECIAL SESSION**  
**April 1, 1998 to April 9, 1998**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 1998**

**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 9, 1998**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

**Whereas**, the above named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Sec. 1. Adoption. Resolved:** That final adoption of Section 71.05(F)(11)-(13) of the Bureau of Elder and Adult Services Policy Manual, a provisionally adopted major substantive rule of the Department of Human Services, Bureau of Elder and Adult Services, and submitted to the Legislature for review pursuant to the Maine Administrative Procedure Act, is authorized but only if the rule is amended as follows: The reference in Section 71.05(F)(13) subsection (b) to Section 71.05(D)(6) subsection (a) must be changed to Section 71.05(H)(1) subsection (b) to reflect the intent of the statutory authority, the Maine Revised Statutes, Title 22, section 304-F, subsection 2.

**Emergency clause.** In view of the emergency cited in the preamble, this resolve takes effect when approved.

Effective April 2, 1998.

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## CHAPTER 111

H.P. 1607 - L.D. 2234

**Resolve, Regarding Legislative Review of Rules Governing the Implementation of Hypodermic Apparatus Exchange Programs, a Major Substantive Rule of the Department of Human Services**

**Sec. 1. Adoption. Resolved:** That final adoption of rules governing the implementation of hypodermic apparatus exchange programs, a provisionally adopted major substantive rule of the Department of Human Services, and submitted to the Legislature for review pursuant to the Maine Administrative Procedure Act, is authorized, with the following amendments to the rules.

1. The rules must require the applicant who signs the application for certification of a needle exchange program on behalf of a corporation or other entity to be the individual or individuals with the

ultimate responsibility for ensuring that the program operates in compliance with the rules.

2. The rules must require each program to notify the Bureau of Health in writing within 10 working days of changes of: ownership; location, address or telephone number; or administrator, management or staff of the program.

3. The rules must specifically prohibit the assignment or transfer of program certification.

See title page for effective date.

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## CHAPTER 112

H.P. 1650 - L.D. 2281

**Resolve, Regarding Legislative Review of Chapter 32: Rules for the Licensing of Children's Day Care Facilities and Chapter 33: Rules for Home Day Care Providers, Major Substantive Rules of the Department of Human Services, Auditing, Contracting and Licensing Service Center**

**Emergency preamble.** Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A, requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 32: Rules for the Licensing of Children's Day Care Facilities and Chapter 33: Rules for Home Day Care Providers, a provisionally adopted major substantive rule of the Department of Human Services, Auditing, Contracting and Licensing Service

Center, and submitted to the Legislature for review pursuant to the Maine Administrative Procedure Act, is authorized, but only if Chapter 33 is amended as follows: Chapter 33: Rules for Home Day Care Providers must be amended to include a provision that no child may be required to be immunized if the child's parent states in writing that it is contrary to the child's religious teachings and practice or if the child's physician submits documentation that such immunization is medically contraindicated. The rule must also include a provision that in the event of a disease outbreak, a child not vaccinated for religious or medical reasons must be excluded from the home day care until the outbreak no longer exists or until the child receives the necessary immunization.

**Emergency clause.** In view of the emergency cited in the preamble, this resolve takes effect when approved.

Effective April 3, 1998.

**CHAPTER 113**

**H.P. 1611 - L.D. 2237**

**Resolve, Regarding Legislative Review of Chapter 820: Requirements for Non-Core Utility Activities and Transactions Between Affiliates, a Major Substantive Rule of the Public Utilities Commission**

**Sec. 1. Adoption with amendment. Resolved:** That the final adoption of Chapter 820: Requirements for Non-Core Utility Activities and Transactions Between Affiliates, a provisionally adopted major substantive rule of the Public Utilities Commission and submitted for review pursuant to the Maine Administrative Procedure Act, is authorized only if the rule is amended as follows:

1. Provisions relating to the calculation of the value of good will used by an affiliate are modified:
  - A. To require the Public Utilities Commission to establish for an initial 3-year period an annual amount that must be paid by the affiliate for the use of good will;
  - B. To require the Public Utilities Commission to reexamine the value of the good will at the end of the initial 3-year period and establish an amount that must be paid by the affiliate for the use of good will for the next 3 years; and
  - C. To establish that the value of good will used by an affiliate at the end of the 6 years is zero;

2. Provisions relating to limitations on investments by utilities in affiliates are modified:

- A. To allow investments by a utility in a regulated affiliate if the utility has not obtained an investment grade bond rating or has filed for a temporary rate increase within 6 months of the utility's filing for approval of the investment, if the utility obtains approval pursuant to the Maine Revised Statutes, Title 35-A, sections 707 and 708, as applicable; and
- B. To allow utilities whose bonds are neither publicly rated nor rated by a private letter bond rating to make investments in affiliates if approved by the Public Utilities Commission pursuant to the Maine Revised Statutes, Title 35-A, section 707 and 708, as applicable; and

3. Provisions relating to payments for the use of good will by an affiliate are modified to specify that they apply to affiliates created on or after September 19, 1997, as long as:

- A. The value of the good will and the payments for its use are calculated on a going-forward basis; and
- B. The affiliate is not required to pay any additional amounts for good will used prior to the effective date of the rule.

The Public Utilities Commission is not required to hold hearings or conduct other formal proceedings prior to finally adopting the rule in accordance with this resolve.

See title page for effective date.

**CHAPTER 114**

**H.P. 1606 - L.D. 2233**

**Resolve, Regarding Legislative Review of Chapter 231: Rules Relating to Drinking Water, a Major Substantive Rule of the Department of Human Services**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.